

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

MARK D. FRIEDMAN, M.D.

Holder of License No. 17039
For the Practice of Allopathic Medicine
In the State of Arizona

Case No. MD-08-0708A

**CONSENT AGREEMENT FOR
LETTER OF REPRIMAND**

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Mark D. Friedman, M.D. ("Respondent"), the parties agree to the following disposition of this matter.

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement"). Respondent acknowledges that he has the right to consult with legal counsel regarding this matter.

2. By entering into this Consent Agreement, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Consent Agreement.

3. This Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

4. The Board may adopt this Consent Agreement or any part thereof. This Consent Agreement, or any part thereof, may be considered in any future disciplinary action against Respondent.

5. This Consent Agreement does not constitute a dismissal or resolution of other matters currently pending before the Board, if any, and does not constitute any waiver,

1 express or implied, of the Board's statutory authority or jurisdiction regarding any other
2 pending or future investigation, action or proceeding. The acceptance of this Consent
3 Agreement does not preclude any other agency, subdivision or officer of this State from
4 instituting other civil or criminal proceedings with respect to the conduct that is the subject
5 of this Consent Agreement.

6 6. All admissions made by Respondent are solely for final disposition of this
7 matter and any subsequent related administrative proceedings or civil litigation involving
8 the Board and Respondent. Therefore, said admissions by Respondent are not intended
9 or made for any other use, such as in the context of another state or federal government
10 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
11 any other state or federal court.

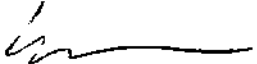
12 7. Upon signing this agreement, and returning this document (or a copy thereof) to
13 the Board's Executive Director, Respondent may not revoke the acceptance of the
14 Consent Agreement. Respondent may not make any modifications to the document. Any
15 modifications to this original document are ineffective and void unless mutually approved
16 by the parties.

17 8. If the Board does not adopt this Consent Agreement, Respondent will not
18 assert as a defense that the Board's consideration of this Consent Agreement constitutes
19 bias, prejudice, prejudgment or other similar defense.

20 9. This Consent Agreement, once approved and signed, is a public record that will
21 be publicly disseminated as a formal action of the Board and will be reported to the
22 National Practitioner Data Bank and to the Arizona Medical Board's website.

23 10. If any part of the Consent Agreement is later declared void or otherwise
24 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in force
25 and effect.

1 11. Any violation of this Consent Agreement constitutes unprofessional conduct
2 and may result in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[v]iolating a formal order,
3 probation, consent agreement or stipulation issued or entered into by the board or its
4 executive director under this chapter") and 32-1451.

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8 _____
MARK D. FRIEDMAN, M.D.

DATED: 2/26/09

1 **FINDINGS OF FACT**

2 1. The Board is the duly constituted authority for the regulation and control of
3 the practice of allopathic medicine in the State of Arizona.

4 2. Respondent is the holder of license number 17039 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-08-0708A after receiving notification of
7 a malpractice settlement involving Respondent's care and treatment of a fifty-five year-old
8 female patient ("SB").

9 4. In August 2001, Respondent saw SB for a complete physical examination;
10 however, he did not perform a breast or pelvic examination or offer a mammogram
11 screening. For four years Respondent continued to treat SB for various issues related to
12 treatment of hypertension; however, there was no indication that Respondent offered SB
13 mammogram screenings. On September 22, 2005, SB presented to Respondent's office
14 and was seen by the physician assistant who ordered a mammogram. On November 10,
15 2005, SB was admitted to the hospital for an evaluation of a large right breast mass. SB
16 was diagnosed with metastatic breast cancer and subsequently died in 2006.

17 5. The standard of care requires a physician to offer mammogram screenings
18 every 1 - 2 years after the age of forty in average risk females.

19 6. Respondent deviated from the standard of care because he did not offer SB
20 annual mammograms.

21 7. As a result of failing to diagnose the condition, SB suffered advanced breast
22 cancer with metastatic spread and premature death.

23 **CONCLUSIONS OF LAW**

24 1. The Board possesses jurisdiction over the subject matter hereof and over
25 Respondent.

2. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(q) ("[a]ny conduct or practice that is or might be harmful or dangerous to the health of the patient or the public.") and A.R.S. § 32-1401(27)(II) ("[c]onduct that the board determines is gross negligence, repeated negligence or negligence resulting in harm to or the death of a patient.").

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is issued a Letter of Reprimand.

2. This Order is the final disposition of case number MD-08-0708A.

DATED AND EFFECTIVE this 2ND day of APRIL, 2009.



ARIZONA MEDICAL BOARD

By 
Lisa S. Wynn
Executive Director

ORIGINAL of the foregoing filed
this 2nd day of April, 2009 with:

Arizona Medical Board
9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

EXECUTED COPY of the foregoing mailed
this 2nd day of April, 2009 to:

Mark D. Friedman, M.D.
Address of Record


Investigational Review